

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

PACIFIC 9 TRANSPORTATION, INC.

and

Case 21-CA-116403

**INTERNATIONAL BROTHERHOOD
OF TEAMSTERS**

ORDER¹

The General Counsel's request for special permission to appeal Administrative Law Judge Jeffrey D. Wedekind's January 22, 2015 ruling requiring the General Counsel to disclose to the Respondent, prior to the hearing, the identity of the Respondent's drivers who will testify at the hearing is granted. The appeal is granted on the merits.

In granting the appeal, we find that the judge should not have ordered the General Counsel to disclose the identity of the Respondent's drivers who will be testifying with respect to the alleged Section 8(a)(1) violations.² As noted by both the judge and the General Counsel, the Board does not require the General Counsel to disclose to a respondent prior to a hearing the names of employees to whom alleged Section 8(a)(1) statements are directed. See *Beta Steel Corp.*, 326 NLRB 1267, 1267-1268 (1998) (under the Board's longstanding rules, set forth in Section 102.118 of the Board's Rules and Regulations, the employer was not entitled in advance of the hearing to a list of the General Counsel's witnesses or any pre-hearing statements they may have given, which was tantamount to pretrial discovery); *Mid-West Paper Products Co.*,

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² We apply an abuse-of-discretion standard in our consideration of the General Counsel's request for special permission to appeal the judge's ruling.

223 NLRB 1367, 1376 (1976) (rejecting employer's demand to know the identity of the General Counsel's witnesses and the "specific[s]" of the General Counsel's evidence, "information to which it was not entitled in advance of the hearing").³

Accordingly, that aspect of the judge's January 22, 2015 Order requiring the General Counsel to disclose the identities of its witnesses prior to the hearing is reversed.

Dated, Washington, D.C., June 11, 2015

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

³ After the close of the General Counsel's case in chief, the Respondent may request a continuance to prepare its defense, if needed. Granting such a request would obviate the need to disclose the identity of the Respondent's drivers who will be testifying with respect to the alleged Section 8(a)(1) violations.